

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION

TIERZA NICOLE-ANITA PAIGE

Plaintiff,

v.

RICK CHARLES NELSON MELCHER
AND STEPHENS CUSTOM TRUCKING

Defendants.

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Civil Action No. 6:21-cv-01100

INDEX OF MATTERS BEING FILED

TO: THE CLERK OF THE WESTERN DISTRICT COURT OF TEXAS, WACO DIVISION

Defendants Rick Charles Nelson Melcher and Stephens Custom Trucking, LLC attach this
Index of Matters Being Filed to their Notice of Removal.

1. Docket Report/Case History for Cause No. 2021-2573-4;
2. Plaintiffs' Original Petition; and
3. Copy of Citation Served on Defendant Stephens Custom Trucking.

Respectfully submitted,

CASTAGNA SCOTT, L.L.P.
1120 S. Capital of Texas Highway
Building 2, Suite 270
Austin, Texas 78746
512/329-3290
888/255-0132 fax

By: /s/ Lynn S. Castagna
Lynn S. Castagna
State Bar No. 03980520
Lynn@texasdefense.com
Chuck Shiver
State Bar No. 00792832
Chuck@texasdefense.com

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served upon the following person(s), in the manner(s) indicated below:

VIA E-SERVICE

Brad Russell
SBN: 24079257
DANIEL STARK, PC
PO Box 1153
Bryan, Texas 77806
brussell@danielstarklaw.com

and in accordance with the Federal Rules of Civil Procedure, on the 22nd day of October 2021.

/s/ Lynn S. Castagna
Lynn S. Castagna



- Home** 
- Criminal** 
- Civil** 

Civil Record Detail: Cause Number: 2021-2573-4

Cause Number 2021-2573-4

Style 1 TIERZA NICOLE-ANITA PAIGE

Style 2 RICK CHARLES NELSON MELCHER, ET AL

Filed Date 8/31/2021

Event Date	Event Desc
09/10/2021	NON RESIDENT CIT ISSUED TO RICK CHARLES NELSON MELCHER
09/10/2021	NON RESIDENT CIT ISSUED TO STEPHENS CUSTOM TRUCKING
09/09/2021	E-FILE INFORMATION SHEET
09/08/2021	REQUEST FOR ISSUANCE
09/08/2021	REQUEST FOR ISSUANCE
09/01/2021	E-FILE INFORMATION SHEET //PE (PETITION)
08/31/2021	PLAINTIFF'S ORIGINAL PETITION

1



FILED
MCLENNAN COUNTY
8/31/2021 2:00 PM
JON R. GIMBLE
DISTRICT CLERK
Nichelle Maddison

CAUSE NO. 2021-2573-4

TIERZA NICOLE-ANITA PAIGE,
Plaintiff

v.

RICK CHARLES NELSON MELCHER
and STEPHENS CUSTOM TRUCKING,
Defendants

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IN THE DISTRICT COURT OF

170TH JUDICIAL DISTRICT

MCLENNAN COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

TO THIS HONORABLE COURT:

COMES NOW Tierza Paige, Plaintiff, complaining of Defendant Rick Melcher and Defendant Stephens Custom Trucking, Defendants, and would respectfully show:

1. Discovery Control Plan and Rule 47 Statement

1.1 Discovery is intended to be conducted under Level 3 of Rule 190 of the Texas Rules of Civil Procedure.

1.2 Plaintiff requests that this Court enter an Order that discovery be conducted in accordance with a Discovery Control Plan tailored to the circumstances of this specific case.

1.3 Despite the many objections lodged by both the defense bar and the plaintiff bar, the rules now provide that a plaintiff must state how much money a plaintiff is seeking in a given suit. Plaintiff would also remind the jury that it is their duty to determine damages. Therefore, for procedural purposes only, due to the new rules put in place in 2013 and Rule 47 of the Texas Rules of Civil Procedure, Plaintiff would note that Plaintiff seeks monetary relief over \$1,000,000.

2. Parties

2.1 Plaintiff is a resident of Bell County, Texas.

2.2 In accordance with Section 30.015 of the Texas Civil Practice and Remedies Code, Plaintiff discloses that Plaintiff's address is 2305 Iowa Drive, Harker Heights, Texas 76548.

2.3 In accordance with Section 30.014 of the Texas Civil Practice and Remedies Code, Plaintiff discloses that the last three (3) numbers of Plaintiff's driver's license number are 856 and that the last three (3) numbers of Plaintiff's Social Security number are 100.

2.4 Defendant Rick Melcher is a resident of Mckenzie County, North Dakota.

2.5 Defendant Rick Melcher may be served with process at 205 5th NW APT 6 ST, Watford City, North Dakota 58854 (telephone: unknown), or wherever said defendant may be found.

2.6 Defendant Stephens Custom Trucking (hereinafter referred to as "Defendant Employer") is a domestic for-profit corporation doing business in the State of Texas. Its principal place of business is in McDonald County, Missouri.

2.7 Defendant Stephens Custom Trucking may be served with process via its registered agent, Joe D Stephens, at 1036 State Hwy E, Rocky Comfort, Missouri 64861 (telephone: unknown), or wherever said agent may be found.

3. Jurisdiction

3.1 Plaintiff's damages are within the jurisdictional limits of this Court.

3.2 Defendants Stephens Custom Trucking and Rick Melcher do business in Texas and are subject to the jurisdiction of this Court.

4. Venue

4.1 All or a substantial part of the events or omissions giving rise to Plaintiff's causes of action occurred in McLennan County, Texas.

4.2 As set forth below, Plaintiff's causes of action arise out of a vehicular collision in McLennan County, Texas wherein the negligent conduct of Defendant in McLennan County, Texas was a proximate cause of the collision and Plaintiff's damages resulting from the occurrence or injury in question.

4.3 Venue is therefore proper in McLennan County, Texas pursuant to Section 15.002(a)(1) of the Texas Civil Practice and Remedies Code.

5. Facts of Case

5.1 On or about January 10, 2021, at or near IH 35, in McLennan County, Texas, a vehicle operated by Defendant Rick Melcher and owned by Defendant Stephens Custom Trucking collided with a vehicle operated by Plaintiff.

5.2 At all times material to the events of this lawsuit Defendant Rick Melcher controlled, utilized, maintained, and operated vehicles in conduct of Defendant Stephens Custom Trucking's business. Defendant Rick Melcher was in the course and scope of his employment with Defendant Stephens Custom Trucking when he was involved in a collision with a vehicle being operated by Plaintiff. That collision and the injuries sustained by Plaintiff as a result of that collision provide the basis of this lawsuit.

5.3 Defendant Rick Melcher's failure to use ordinary care in the operation of Defendants' vehicle was a proximate cause of this wreck and Plaintiff's resulting injury.

5.4 Defendant Stephens Custom Trucking's failure to use ordinary care and ensure Defendant Rick Melcher was a safe and competent driver was also a proximate cause of this wreck and Plaintiff's resulting injury.

6. Causes of Action

6.1 Plaintiff bases Plaintiff's causes of action in part upon negligence or negligence per se as these terms are defined under the common law and statutes of Texas and the doctrines of respondeat superior and res ipsa loquitur are invoked where applicable.

6.2 Plaintiff would show that the conduct of Defendants, as set forth herein and otherwise, constituted negligence by act or omission, each and all of which was a proximate cause of the occurrence or injury in question and Plaintiff's damages resulting from the occurrence or injury in question.

6.3 Defendant Stephens Custom Trucking is vicariously liable for the actions of Defendant Rick Melcher and for Plaintiff's injuries and damages under the legal theory of respondeat superior as that term is defined and understood pursuant to Texas law.

6.4 All conditions precedent to the filing of this lawsuit and bringing said causes of action have been performed or have occurred.

7. Damages

7.1 Plaintiff has suffered damages in the past as well as in the future.

7.2 These damages, past and future, include those damages resulting to Plaintiff, conditioned as Plaintiff was at the time of the occurrence in question, or which resulted from the activation of any condition which may have existed at the time of the occurrence in question.

7.3 These damages, past and future, include physical pain, mental anguish, loss of earnings or earning capacity, disfigurement, physical and mental impairment, and reasonable expenses for necessary health care, including rehabilitative services and devices, resulting from the injuries sustained in the occurrence in question.

7.4 These damages include any subsequent aggravation of the injuries sustained in the occurrence in question.

8. Prayer for Relief

8.1 WHEREFORE, PREMISES CONSIDERED, Plaintiff prays for judgment against Defendants for all damages to which Plaintiff is entitled by law, prejudgment as well as postjudgment interest, costs of court, and such other and further relief, general and special, legal and equitable, to which Plaintiff is justly entitled.

9. Rule 193.7 Notice to Defendants

9.1 TO DEFENDANTS: Plaintiff hereby notifies you, pursuant to Rule 193.7 of the Texas Rules of Civil Procedure, that Plaintiff currently intends to use all items produced by you in this litigation at any pretrial proceeding or trial.

10. Rule 609(f) Request to Defendants

10.1 TO DEFENDANTS: Pursuant to Rule 609(f) of the Texas Rules of Evidence, Plaintiff hereby requests, in regard to any witnesses that shall be named by any party as a person with knowledge of relevant facts, or as a testifying expert, that you give Plaintiff sufficient advance written notice of your intent to use evidence of a conviction of any such witness.

Respectfully submitted,

DANIEL STARK, P.C.

BY: 

Brad Russell
Bar No. 24079257
brussell@danielstarklaw.com
Post Office Box 1153
Bryan, Texas 77806
Telephone: (979) 846-8686
Facsimile: (979) 764-8002
ATTORNEY FOR PLAINTIFF

Date: 10-2-21
Time: 10:00 am
Initials: JY
PAPER# 2
ATTY/MAIL

NON-RESIDENT CITATION

THE STATE OF TEXAS

Cause No: 2021-2573-4

TO: STEPHENS CUSTOM TRUCKING, A DOMESTIC FOR-PROFIT CORPORATION, DEFENDANT - BY SERVING ITS REGISTERED AGENT, JOE D STEPHENS, AT 1036 STATE HWY E, ROCKY COMFORT, MISSOURI 64861

GREETINGS:

YOU ARE HEREBY COMMANDED to appear before the Honorable District Court below, of McLennan County, Texas, at the Courthouse of said County located at 501 Washington Avenue in Waco, Texas, by filing a written answer with the Clerk of the Court, at or before 10 o'clock A.M. of the Monday next after the expiration of twenty days after the date of service of this citation, to the pleading described below, in the cause number described below on the docket of said court, and styled,

PARTIES TO THIS ACTION ARE:

TIERZA NICOLE-ANITA PAIGE

Plaintiff

VS.

RICK CHARLES NELSON MELCHER AND STEPHENS CUSTOM TRUCKING, A DOMESTIC FOR-PROFIT CORPORATION

Defendants

Court: **170TH JUDICIAL DISTRICT**
Pleading: **PLAINTIFF'S ORIGINAL PETITION**
Pleading File Date: **AUGUST 31, 2021**
Cause No: **2021-2573-4**

NOTICE

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and the above pleading, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org

The officer executing this citation shall promptly serve the same according to requirements of law, and the mandates hereof, and make due return as the law directs.

ISSUED AND GIVEN UNDER MY HAND AND SEAL OF OFFICE, at Waco, McLennan County, Texas.
Issue Date: **SEPTEMBER 10, 2021.**

BRAD RUSSELL
P.O. BOX 1153
BRYAN, TEXAS 77806
Attorney for Plaintiff

Jon R. Gimble, District Clerk
501 Washington Ave., Suite 300 Annex
Waco, McLennan County, Texas 76701
By: Nichelle Maddison, Deputy
NICHELLE MADDISON

PE

RETURN OF SERVICE

Style: **TIERZA NICOLE-ANITA PAIGE VS. RICK CHARLES NELSON MELCHER AND STEPHENS CUSTOM TRUCKING, A DOMESTIC FOR-PROFIT CORPORATION**

Cause No: **2021-2573-4**

Court: **170TH JUDICIAL DISTRICT**

Paper#: **2**

Pleading: **PLAINTIFF'S ORIGINAL PETITION**

THE STATE OF _____

COUNTY OF _____

Before me, the undersigned authority, on this day personally appeared _____ who after being by me duly sworn deposes and says that he is above twenty-one years of age, of sound mind, and in no manner interested in the within styled and numbered cause, and competent to make oath of the facts herein stated.

Came to hand on the _____ day of _____, 20____ at _____ o'clock ____M and executed on the _____ day of _____, 20____ by delivering to the party designated in the citation, to-wit: _____ at _____ o'clock ____M; in person, a true copy of this citation with a true and correct copy of the pleading attached thereto, having first endorsed on such copy of said citation the date of delivery.

FEES: Serving one (1) copy

Total \$ _____

**NO SHERIFF OR CONSTABLE
FEES COLLECTED**

_____ County, Texas

By _____

NOT EXECUTED FOR THE FOLLOWING REASONS _____

and having attempted on _____.

"My name is _____ (First) _____ (Middle) _____ (Last), my

date of birth is _____, and my address is _____

_____.

I declare under penalty of perjury that the foregoing is true and correct. Executed in _____ County,

State of Texas, on the _____ day of _____ (Month) _____ (Year)

_____ (Signature) Declarant"



Daniel Stark
INJURY LAWYERS

September 22, 2021

Stephen's Custom Company LLC
Registered Agent – Joe D Stephens
1036 State Hwy E,
Rocky Comfort, Missouri 64861

Dear Registered Agent – Joe D Stephens:

You are being served with a copy of the lawsuit and discovery filed with the Court in relation to the collision occurring on January 10, 2021 in Unknown, Texas.

Upon receipt of the lawsuit, immediately contact your automobile insurance company to request a defense attorney.

Great West Casualty Company likely has a duty to provide you legal defense at no additional cost to you. You can contact them via phone number (402) 494-2411, fax number (402) 494-8525 or mail at 1100 West 29th St Box 277, South Sioux City, NE 68776. If you choose to contact the insurance company by mail, simply sign the enclosed letter where indicated and mail it immediately by placing it in the provided envelope.

Thank you in advance for your prompt response.

Very truly yours,
DANIEL STARK, P.C.

Brad Russell
Attorney

BR/zw
Enclosures



BRYAN/COLLEGE STATION • WACO • KILLEEN • AUSTIN • TYLER • SAN ANGELO

P.O. Box 1153, Bryan, Texas 77806

(P) 888-846-8686

(F) 979.764.8002

www.danielstarklaw.com

September 22, 2021

Great West Casualty Company
1100 West 29th St Box 277
South Sioux City, NE 68776

Re: Lawsuit from car collision on January 10, 2021
Claim # = Q87800
Adjuster = Angie Steeg

Dear Sir or Madam:

I have been sued as a result of an automobile collision that occurred on January 10, 2021. Please provide me with legal defense based on the terms of the insurance policy that covered me on the date of the collision.

I have enclosed a copy of Plaintiff's Original Petition and discovery documents that have been served upon me. Please send this petition to an attorney so that an Answer can be filed on my behalf within the time allowed by law.

If you fail to provide me with a defense, and a default judgment is taken against me, I intend to hold Great West Casualty Company responsible for said judgment. If there is any reason you cannot provide me with a defense, please contact me immediately and provide a written explanation of your refusal.

Sincerely,

Stephen's Custom Company LLC